D.B. CIVIL SPECIAL APPEAL (W) NO.743/2006
State of Rajasthan Vs. Chhottulal & Anr.
Date : 29.5.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. L.R. Upadhyay, Dy. Government Advocate.
Mr. B.N. Kalla for the respondents.

We have heard learned counsel for the parties.

This appeal is directed against the order of learned Single Judge dated 12th May, 2003 dismissing the writ petition filed by the appellants.

By notification dated 9.2.1998, the industrial dispute was referred to the Labour Court, Udaipur whether the termination of services of Chhottulal vide order dated 7.11.1992 passed by the District Education Officer is just and valid and if not to what relief the workman is entitled.

The dispute had arisen because after the respondent-workman was appointed as a Lab Boy in the

pay scale of Rs.775-1025 when he was called upon to produce the original certificates to verify the documents placed along with his application, his services were brought to an end finding him not eligible to hold the post. The Labour Court found in favour of the employer in this aspect of the matter that he was asked to produce the original record about the eligibility, date of birth, medical fitness, being member of reserved category but he did not produce any such document at any time until the matter was referred to the Labour Court. Thus, basic ground for termination of services was found in favour of the employer.

However by strange reasoning referring to fact that those employees, who had been in service upto 25.8.1995 as a part time class IV have been regularised considering the workmen's service rendered as a part time, the award was made that since the persons junior to him working as a part time employees had been regularised, his termination of services is in violation of Section 25-F and 25-G of the Industrial Disputes Act and directed reinstatement of the workman without back

wages.

The writ petition against the award has been dismissed by learned Single Judge vide judgment under appeal. Having considered rival submissions and material on record, the appeal must succeed.

It is apparent that Labour Court has entered in dispute which was not referred to it. The fact whether the workman's services as part timer were brought to an end by retrenchment was never the subject matter of the dispute referred to the Tribunal. The subject matter of the dispute was termination of service of the petitioner as Lab Boy for the reason that he had failed to produce relevant documents and that having been found in favour of the petitioner, it was beyond the jurisdiction of the Labour Court to traverse beyond that and entertain some other issue. Moreover, the part time employment of the workman had come to an end on 1.1.1992 when he was given appointment on a regular post and it was found to be obtained without original documents to support his candidature.

In these circumstances, even the benefit of regularisation of those part time employees, who continued to remain in service after the part time employment of the respondent had come to an end could not be a ground for giving the respondent a back door entry.

We are, therefore, of the opinion that Labour Court had committed an error apparent on the face of record in going beyond the scope of dispute referred to it and awarding relief to the workman on the basis of his part time employment, which was not subject matter of relief.

As a result of the aforesaid discussion, this appeal is allowed and the award of labour court under challenge is quashed. No order as to costs.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

babulal/